

Revision: HCFA-PM-92-3 (HSQB)
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OMB No.:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: North Carolina

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Survey and Certification Education Program

The State has in effect the following survey and certification periodic educational program for the staff and residents (and their representatives) of nursing facilities in order to present current regulations, procedures, and policies.

Attached you will find the listing of Educational offerings for providers and/or the community beginning August 1990. This list is maintained ongoing. Lesson plans and attendance rosters are on file in the Certification Section, Division of Facility Services.

The Training Branch of the Certification Section will continue to entertain all requests for training from the provider and consumer community.

In addition, the Training Coordinator is available by telephone five days per week for technical assistance with OBRA regulation. This service will continue ongoing.

Community College based training is planned for Educational offerings on Nurse Aide Registry. This will be developed and conducted by the staff of the Nurse Aide Registry, located at the Division of Facility Services.

In addition to Provider Training listed, the Division of Facility Services has three standing committees with the provider community which provide for regulatory clarification. These three committees are:

1. Regulatory Focus Committee - Committee of Long Term Care Association members, providers, and staff of the Division who meet monthly to address regulatory concerns and send out a newsletter to all providers.
2. Home Health Liaison Committee - Composed of providers and Association members from the home health industry that meets quarterly to address regulatory concerns. Newsletter is sent out quarterly.
3. ICF/MR Review Committee - Composed of Association members, institutional and community providers, and state representatives. Meets once a quarter to clarify issues related to ICF/MR. A newsletter is sent to all providers.

The Division also provides staff at winter and summer meetings of the North Carolina Health Care Facilities Association Convention to serve on panels, give presentations and participate in workshops.

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Survey and Certification Education Program

A staff person is provided to teach a session of the class for Nursing Home Administration being licensed in North Carolina on an ongoing basis.

Staff of the Division make themselves available to the long term care industry on an ongoing basis to provide training when new requirements come down. For example, we have volunteered to provide statewide training on changes in OBRA.

Staff of the Division are available for long term care seminars when requested to serve on panels or make presentations. For example, on May 7th of this year the Certification Chief served on a panel of a Division of Aging session in Greensboro.

Staff with the Division of Medical Assistance have provided training in the area of advanced directives.

The Nurse Aide program has also provided training to providers.
(See attached)

We have requested an additional staff development position in this coming years' budget to provide additional training to providers and residents. We will take requests from the provider community for local training at facilities, provide staff for training at corporate and association meetings when requested, provided ongoing training in Raleigh and Black Mountain for providers and provide staff for other training as time allows.

PROVIDER TRAINING - AUGUST 1990 THRU NOVEMBER, 1991

8/15/90	North Carolina Health Care Facilities Association Mid Year Meeting
9/11- 13/90	North Carolina Health Care Facilities Association Coping with OBRA
9/19/90	Western Round-up - Dietetics
9/20/90	N.C. Chapter of the American Colleges of Health Care Administrators - "OBRA Are We Ready"
10/12/90	Legal Issues in Long Term Care Health - Raleigh
10/19/90	Legal Issues in Long Term Care Health - Hickory
12/5/90	N.C. Hospital Association "Insights on the Long Term Care Provisions of OBRA"
2/3/91	Third Annual Post Graduate Workshop for Consultant Pharmacists
2/18/91	General Regulatory Seminar, North Carolina Health Care Facilities Association
3/5- 7/91	Provider Training for Resident Assessment Instrument
3/13- 14/91	Provider Training for Resident Assessment Instrument
3/19/91	Provider Training for Resident Assessment Instrument
3/21/91	Provider Training for Resident Assessment Instrument
3/26/91	Provider Training for Resident Assessment Instrument
4/10/91	N.C. Dietary Managers Association
4/11/91	N.C. Nurse's Association Gerontology Council - Overview of the Resident Assessment Instrument
5/9/91	Buncombe Co. Nursing Home Advisory Committee - OBRA Regulations
5/24/91	University of North Carolina Asheville - Tenth Annual Western N.C. Gerontology Forum: Quality of Life and Resident Rights in Long Term Care: The Impact of OBRA
8/22/91	Wilmington Area AHEC: Resident Rights and Quality of Life: A Social Worker's Perspective
10/22-24/91	N.C. Division of Aging: Aging and Health: The Community Connection: RAI
10/23/91	Implementing the Patient Self-Determination Act - Asheville, N.C.

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PROVIDER TRAINING APRIL 1991 - MARCH, 1992

10/28/91	Constituency Meeting - N.C. Hosp. Association: LTC Short Term Beds - MDS
11/11/91	Implementing the Patient Self-Determination Act - Fayetteville, N.C.
3/26/92	"On the Road to Excellence" Bristlecone Consulting Co.

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Training Provided to Providers, Community Colleges, Public Schools, by
Consultant, Nurse Aide Certification, Division of Facility Services

Presentations:

TRAIN THE TRAINER PROGRAM

1. Sponsored by Division of Facility Services and North
Carolina Health Care Facility Administration. June, 1991
2. Greensboro Area Health Education Center October, 1991
3. ProCare Training NAR Program Coordinators, Evergreens,
Greensboro Area Health Education Center September, 1991
4. Regional Community College, Administrators and Program
Coordinators, Gaston Community College. November, 1991
5. North Carolina Annual Conference of Adult
Educators from Community Colleges, Adams
Mark, Charlotte, North Carolina. May, 1992

SMALL GROUP TRAINING SESSIONS

1. N.C. Department of Community Colleges meetings with
administrators in charge of Nurse Aide Training. January, 1991
February, 1991
May, 1991
2. N.C. Department of Public Instruction meeting
with consultants of Health Occupations Education May, 1992
3. N.C. Board of Nursing Meeting, Shell Island N.C. October, 1991
4. N.C. Board of Nursing Headquarters, Raleigh, N.C.. January, 1992
February, 1992
5. Task Force for unlicensed Personnel, North
Carolina Board of Nursing. Fall, 1991

ON-GOING TRAINING THROUGH:

1. North Carolina Nurse Aide Certification
Advisory Committee Day Every 1/2 Day Every
Other Month
2. Hourly/daily communications with health care industry
and training programs regarding requirement of nurse
aide training and competency and nurse aide registry.
3. Informational documents prepared and mailed to all
training programs and competency evaluation programs
on a regular basis.

ACTIVITIES FOR 1992 AND 1993

1. Participate in Train and Trainer Programs as they
are offered through the community colleges and through
the Area Health Education Centers.
2. Regional presentations to Community Colleges when requested.
3. Presentation to North Carolina Nurses Association,
August 23, 1992.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: North Carolina

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review and investigation of allegation of neglect and abuse and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident.

(See attached.)

- * Abuse, Neglect and Misappropriation of Property: Policy
- * Abuse, Neglect and Misappropriation of Property: Referrals
- * Investigation Procedures for Abuse, Neglect and Misappropriation of Property: Investigations
- * Abuse, Neglect and Misappropriation of Property: Entry of Substantiated Findings into the Nurse Aide Registry

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ABUSE, NEGLECT AND MISAPPROPRIATION OF PROPERTY

POLICY: Allegations of resident abuse, neglect and misappropriation of property by a nurse aide or another individual used by a nursing facility or combination facility will be received, reviewed timely and investigated. If an allegation is substantiated, the nurse aide will be notified and an opportunity for a hearing will be provided prior to entering the substantiated finding into the state nurse aide registry. If an allegation is substantiated for another individual, the appropriate licensure authority will be notified.

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Procedure: ABUSE, NEGLECT, MISAPPROPRIATION OF PROPERTY; REFERRALS

1. Referrals are received from providers by phone or mail.
 - a. Fill out a referral form upon receipt. Fill out as completely as possible to include names of alleged perpetrator(s), victim(s), witnesses, nature of allegation, date and time of incident, injuries (if any), result of provider's investigation (substantiated/unsubstantiated), and provider's action.
 - b. Determine if allegation has been reported to the county Department of Social Services, local law enforcement agency or other agency. Obtain as much information as possible from the reporter regarding investigations by these agencies.
 - c. Request additional information as needed (i.e. copy of facility investigation, statements of victim, witnesses and alleged perpetrator, incident report, termination notice, orientation and inservice documentation of alleged perpetrator) and indicate items requested on the referral form.
 - d. Make an entry into the referral log.
 - e. When additional information is received from the provider, Department of Social Services, police or other agency, attach information with referral form and update log.
2. Determination of investigation by Abuse, Neglect and Misappropriation of Property Team.
 - a. After review of referral and information received, the Program Manager will determine whether the allegation will be investigated by the Team.
 - b. If an investigation is to be done, the referral is assigned a control number and entered into investigation log.
 - c. If no investigation is to be done, the reason will be noted on the referral form. All related documents will then be attached and filed in the Abuse, Neglect and misappropriation of Property miscellaneous file.
 - d. Mail letters to acknowledge information received and to indicate planned actions to the provider.

and other agencies as appropriate.

3. Other reports of abuse, neglect or misappropriation of property when provider has not referred.

a. Department of social services:

- 1) Document on a form substantiated reports of resident abuse, neglect or misappropriation of property by DSS and attach the DSS report.
2. Indicate on the form that the provider did not report the allegation to DFS
3. Route form and attachment for assignment of a control number and entry into the abuse, neglect and misappropriation of property log.
4. Mail a letter to the reporting department of social service acknowledging receipt of the report and the planned action.

b. Police:

- 1) Document on a form, substantiated reports of resident abuse, neglect, and misappropriation of property and attach report from police.
- 2) Indicate on the form that the provider did not report the allegation to DFS.
- 3) Route the form and attachments for assignment of a control number and entry into the abuse, neglect and misappropriation of property investigation log.
- 4) Mail a letter to the reporting police department acknowledging receipt of report and planned action.

c. Reports from other sources are to be considered complaints. Please see the procedures for processing and investigating complaints.

INVESTIGATION PROCEDURES FOR ABUSE, NEGLECT and MISAPPROPRIATION OF
PROPERTY INVESTIGATION

Investigation Tasks:

Task 1 Off Site Preparation

Task 2 Entrance Conference

Task 3 Record Review

Task 4 Interviews

Task 5 Information Analysis and Decisionmaking

Task 6 Exit Conference

Task 7 Off Site Interviews and Follow-up

Task 8 Off Site Information Analysis and Decisionmaking

Task 9 Report Preparation

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Task 1. OFF SITE PREPARATION

Review the facility file for:

- correspondence (addressing facility situations that may impact on the investigation)
- recent licensure and/or certification survey-including deficiencies, staffing information, waivers, corrective action status (if appropriate), abuse reports and complaint investigations.

The investigator will review the investigation packet materials prepared by the program manager and determine what specific information will be needed to complete the investigation (ex: specific medical, personnel and inservice records; facility policies, incident reports; police reports etc,.)

The investigator will schedule the visit to the facility. An announced visit may be made when the facility has already provided much of the data needed and the primary purpose of the visit is to conduct interviews.

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Task 2. ENTRANCE CONFERENCE

The investigator conducts the entrance conference, informs the facility administrator about the investigation. The investigator explains the investigation process and answers questions from facility staff.

Ask the administrator for the specific records needed to conduct the investigation, and the location of the individuals that will need to be interviewed (If staff are not present, the administrator may wish to arrange to have staff come to the facility if possible. The team manager may not require off duty staff to come to the facility to be interviewed.).

Ask the administrator to introduce you to key staff members relevant to the investigation (ex: medical records clerk, bookkeeper, personnel director, director of nursing).

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TASK 3. RECORD REVIEW

Review personnel records of the alleged perpetrator and witnesses that are staff members to obtain information needed to complete the investigation report.

Review medical records of residents involved in the alleged incident to obtain information needed to complete the investigation report.

Review facility inservice records, incident reports and facility policies relevant to the investigation.

Request copies of information as needed to supplement the report.

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Task 4. INTERVIEWS

Contact interviewees to advise them of the purpose of the interview and to see if they are willing to participate

Interview witnesses individually unless otherwise requested by the interviewee.

Document the conversation and have the interviewee sign the document and have a member of the facility (preferable the DON or the administrator) witness the signature. Signed/witnessed documents will not be necessary for all interviews (ex: interviews with persons who have only general information; persons who have previously signed a prepared statement.).

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TASK 5. INFORMATION ANALYSIS AND DECISION MAKING

The investigator reviews and analyzes all data gathered and determines if a decision can be made at this point or what additional information is required. If further information is NOT required and an off site review of the information is NOT required a decision is made based on the data collected. The decision must be made regarding (a) whether a resident's rights violation occurred (b) the acceptability of the facilities actions in hiring, training, evaluation, investigation and follow-up, etc. (c) whether the accused was the perpetrator (d) whether there are licensure or certification deficiencies and how they will be addressed during the exit conference.

If additional information is required from sources outside the facility (interviews with absent staff members, alleged perpetrator, police etc.), the on site visit will conclude with the exit conference.

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TASK 6. EXIT CONFERENCE

Conduct an exit conference with the administrator. If the investigation has been concluded make known your findings and any deficiencies that will result.

If the investigation will not be completed on site, update the administrator as to what remains to be done. If the probability of a negative action against the facility exists, discuss this with the administrator.

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TASK 7. OFF SITE INTERVIEWS AND FOLLOW UP

There will usually be one person conducting a specific investigation; that person would be responsible for completing the off site investigation interviews and following up any additional information. When a second person has assisted with the investigation, the chief investigator may designate off site tasks to that individual.

Document all attempts to contact witnesses and alleged perpetrator. When telephone contact has not been successful or is inconvenient, a certified letter may be sent to the individual. When it is practical, contacts should be made in person.

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TASK 8. OFF SITE INFORMATION ANALYSIS AND DECISIONMAKING

Review all data relating to the incident and make a decision based on facts and witness credibility.

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TASK 9. REPORT PREPARATION

Compile the information into report form using the appropriate DFS and HCFA forms.

If a deficiency is cited it should be written in terms specific enough to allow a reasonably knowledgeable person to understand the aspect(s) of the requirements(s) that is (are) not met. The format should follow the current HCFA or DFS Licensure guidelines as applicable.

The facility administrator will be notified in writing of the outcome of the investigation upon completion and of any negative action taken or proposed against the facility.

The alleged perpetrator will be notified in writing by the program manager of the outcome of the investigation and any action to be taken against same in addition to what rights the perpetrator has to challenge the conclusion.

The facility has the right to appeal any negative action in accordance with the law and established DFS policies and procedures.

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Procedure: ABUSE, NEGLECT AND MISAPPROPRIATION OF PROPERTY: ENTRY
OF SUBSTANTIATED FINDINGS INTO THE NURSE AIDE REGISTRY

1. Notice to nurse aide by mail.
 - a. A letter notifying the nurse aide with a substantiated finding of abuse, neglect or misappropriation of property is to be filled out by the staff member investigating the allegation. The letter includes the notice of a substantiated finding, the intent to enter the finding into the nurse aide registry, the opportunity to appeal the finding through informal procedures and formal contested case hearing through the Office of Administrative Hearings, and the opportunity to submit a rebuttal to be entered into the nurse aide registry along with the finding.
 - b. The completed letter and the documentation of the investigation is reviewed and approved by the Program Manager.
 - c. The letter and documentation is then forwarded to the Chief of the Licensure Section for approval and signature.
 - d. The letter is sent to the nurse aide by certified mail.
2. Notice to nurse aide by publication.
 - a. If the registered letter returns nondeliverable, a notice of service of process by publication is filled out.
 - b. The notice by publication is sent to a newspaper circulated in the county where the nurse aid is believed to be located, or if there is no reliable information concerning the location of the nurse aide, then in a newspaper circulated in the county where the action is pending.
 - c. An affidavit is to accompany the notice of service of process by publication to the publishing newspaper.
 - d. A letter advising the newspaper to publish the notice once a week for three consecutive weeks and to sign and notarize the affidavit, filling in the three dates the notice ran in their paper is also to accompany the notice.

3. Substantiated finding not contested by a nurse aide.
 - a. An entry of a substantiated finding is entered into the nurse aide registry by the tenth working day following the opportunity for appeal.
 - b. The nature of the allegation, the evidence that led to the conclusion the allegation was valid and, if submitted, a rebuttal statement by the nurse aide is entered with the nurse aide's listing on the registry.
 - c. The nurse aide is notified of the content of the entry by mail once the entry is made.
4. Substantiated finding appealed through informal procedures.
 - a. Upon receipt of a request for appeal through informal procedures, a meeting is scheduled for the nurse aide with the Section Chief.
 - b. The Section Chief determines the outcome of the substantiated finding.
 - c. The nurse aide is notified of the decision of the Section Chief by mail.
 - d. If the substantiated finding is upheld, an entry is made with the nurse aide's listing on the registry as in 3. b. above.
 - e. The nurse aide is notified of the content of the entry by mail once the entry is made.
5. Substantiated finding contested.
 - a. A petition for a contested case hearing is filed by the nurse aide with the Office of Administrative Hearings within the appeal time frame specified by G.S.131E-111 and in accordance with G.S. 150B.
 - b. If the substantiated finding is upheld by the Office of Administrative Hearing Judge and the Division Director, an entry is made of the finding with the nurse aide's listing on the registry as in 3. b. above including the date of the hearing and the outcome.
 - c. The nurse aide is notified of the content of the entry

by mail once the entry is made.

- a. Submission of a rebuttal statement.
 - a. If a rebuttal statement disputing the allegation is submitted by the named nurse aide, the rebuttal statement is entered into the nurse aide registry with the substantiated finding.
 - b. The rebuttal statement may be edited to ensure the statement is brief enough to fit into the space provided by the registry.
 - c. The nurse aide is notified of the content of the entry by mail once the rebuttal statement is entered.

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ABUSE, NEGLECT AND MISSAPPROPRIATION OF PROPERTY:
POLICY AND PROCEDURES

Approved by:

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[Signature], Section Chief,
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